



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JRE
Docket No: 1551-99
15 May 2000



Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 4 May 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that on 5 March 1997, the Physical Evaluation Board made recommended findings that you were unfit for duty because of fibromyalgia-like syndrome, rated at 10%. On 11 March 1997, you accepted those findings conditioned upon your being retained on active duty until 15 May 1997. Your condition was accepted, and you were retained on active duty until 2 July 1997, when you were discharged by reason of physical disability. On 3 November 1997, the Department of Veterans Affairs (VA) awarded you a 40% rating for fibromyalgia, based on the rating official's interpretation of the VASRD rating criteria for that condition.

The Board noted that while the findings made by the VA in your case are of evidentiary value, they are not binding on the Board. The Board was not persuaded that your condition met the criteria for a 40% rating at the time of your discharge from the Navy, or that you were otherwise qualified for disability retirement. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director